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2 Nevada Bar No. 11254
3 RICHARDS & ASSOCIATES, LLC
4 1489 W. Warm Springs Rd., Ste 110,
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6

7 UNITED STATES BANKRUPTCY COURT

8

9 DISTRICT OF NEVADA

10 In Re:

11 JOSHUA MARQUISE MYLES

12 Debtor

13 JOSHUA MARQUISE MYLES

14 Plaintiff

15 vs.

16 SANTANDER CONSUMER USA, INC

17 Defendant

18 CASE NO. 13-12201-mkn

19 TRUSTEE: VICTORIA NELSON

20 IN RE CHAPTER 7 PROCEEDINGS

21 **ADVERSARY NO.**

22 **COMPLAINT**

23 COMES NOW Joshua Marquise Myles (hereinafter referred to as "Plaintiff" or "Debtor"),
24 by and through his attorney, Jared R. Richards, Esq., and pleads as follows:

25 **THE PARTIES, JURISDICTION, AND VENUE**

26 1. Plaintiff is an individual residing in Nevada.

27 2. Defendant Santander Consumer USA, Inc. is a foreign corporation conducting
business in Nevada.

28 3. The Court has jurisdiction over this lawsuit because it involves a core matter
pursuant to 28 U.S.C. § 1334 and 28 U.S.C. §§ 157(a), (b)(2)(A), (b)(2)(B), (b)(2)(G).

4. This adversary proceeding relates to *In re Joshua Marquise Myles*, a Chapter 7 case pending before the United States Bankruptcy Court for the District of Nevada, docketed as case number 13-12201-mkn.

5. Venue for this matter is proper pursuant to 28 U.S.C. § 1409.

GENERAL ALLEGATIONS

6. Debtor is the owner of a 2010 Chrysler Sebring.

7. Debtor financed the vehicle through the use of a loan provided by secured creditor Santander. The vehicle acted as collateral for that loan.

8. On or around March 10, 2013, Santander repossessed the vehicle and demanded payment for the return of the vehicle.

9. Debtor filed a voluntary petition for Chapter 7 relief on March 18, 2013.

10. Debtor listed the Car on Schedule B and exempted the Car on Schedule C.

11. Debtor listed the Secured Creditor, Santander on Schedule D of his bankruptcy petition for the amount of the claim.

12. Debtor listed on his Statement of Intent that he intended to redeem the vehicle. Secured Creditor.

13. On March 19, 2013, counsel for Debtor contacted Santander via telephone, informed Santander that Debtor had filed bankruptcy, that the automatic stay was in place, and that Debtor intended to redeem the vehicle. Counsel instructed Santander to return the vehicle to Debtor. Counsel confirmed the conversation and notice in a letter that was faxed to Santander the same day. A true copy of the March 19, 2013 letter is attached as Exhibit A.

14. Later on March 19, 2013, counsel for Debtor contacted Santander again via telephone and again requested the return of Debtor's vehicle. A supervisor in Santander's bankruptcy department confirmed that the vehicle had not yet been sold, and thus was still titled in Debtor's name. But, the supervisor informed Debtor's counsel that it is Santander's policy not to give up control or return the property of Chapter 7 debtors if the property had been repossessed, (but not yet sold), prior to the filing of the petition. Counsel informed the Santander

1 the automatic stay. In response, the supervisor confirmed that it is the policy of Santander not to
2 return such property.

3 15. On March 20, 2013, counsel for Debtor sent another fax to Santander demanding
4 the return of the vehicle either to Debtor or the Chapter 7 Trustee. A true copy of the March 20,
5 2013 correspondence is attached as Exhibit B. Santander did not respond and continued to hold
6 the vehicle until it was redeemed.

7 16. Defendant was served with redemption motion and notice of hearing on March 27,
8 2013, but chose not to oppose the motion. The Court granted Plaintiff's motion to redeem on
9 May 20, 2013.

10 17. Debtor has sustained actual damages by the loss of his vehicle. Not only has
11 Debtor lost the use of his vehicle, but he had to ask family members and friends to provide
12 transportation for him, at great inconvenience to Debtor and the people driving him. For
13 example, he has regularly gone to work an hour early because that is when his mother can drop
14 him off.

15 18. Debtor has sustained actual damages by being forced to retain counsel.

16 19. Debtor has sustained actual damages by having a promotion denied him because of
17 his lack of transportation.

18 FIRST CAUSE OF ACTION

19 1. The foregoing paragraphs are incorporated herein by reference.
20 2. Defendant's conduct was a willful violation of 11 U.S.C. § 362(a) and 11 U.S.C. §
21 542(a).

22 WHEREFORE, Plaintiff requests an Order declaring Defendant guilty of civil contempt by
23 violating the automatic stay; and awarding Plaintiff compensatory damages, punitive damages
24 and costs and attorney's fees pursuant to 11 U.S.C. § 362(k).

1 Dated: June 4, 2013

RICHARDS & ASSOCIATES, LLC

2 By: /s/ Jared Richards
3 Jared R. Richards, Nevada Bar No. 11254
4 1489 W. Warm Springs Rd., Ste 110,
5 Henderson, NV 89014
6 Telephone: (702) 518-5180
7 *Attorneys for Debtor*

Richards & Associates

LLC
LAW OFFICES
1489 W. WARM SPRINGS RD., SUITE 110
NEVADA, NEVADA 89014

Exhibit A

Jared R. Richards - (702) 518-5180
jared@jaredrichardslaw.com

March 19, 2013

Via Facsimile (214) 237-3661

Santander Consumer USA
Po Box 961245
Ft Worth TX 76161

Re: Joshua Myles, Acct: 30000173277811000 on the 2010 Chrysler Sebring

Dear Santander:

This letter is to confirm the conversation I had with your customer service agent earlier today. I represent Joshua Myles in his federal bankruptcy proceeding. Mr. Myles filed for Chapter 7 bankruptcy yesterday in the Federal District of Nevada. His case number is 13-12201. I have attached a copy of his petition for your files.

Your repo agent is currently in possession of Mr. Myles' 2010 Chrysler Sebring. As you are aware, Mr. Myles now under the protection of the automatic bankruptcy stay. As such, please instruct your local repo agent to release the vehicle to Mr. Myles. Please contact me via facsimile or telephone to inform me when Mr. Myles can pick up his car. Naturally, any further enforcement of the loan outside of the bankruptcy court, including keeping the vehicle from Mr. Myles, will be a violation of the automatic stay, and will force us to move for sanctions. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

Richards & Associates

Jared Richards

B1 (Official Form 1)(12/11)

United States Bankruptcy Court
District of Nevada

Voluntary Petition

Name of Debtor (if individual, enter Last, First, Middle): Myles, Joshua Marquise	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all) xxx-xx-5553	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all)
Street Address of Debtor (No. and Street, City, and State): 7227 W. Windmill Lane, Unit 253 Las Vegas, NV ZIP Code 89113	Street Address of Joint Debtor (No. and Street, City, and State): ZIP Code
County of Residence or of the Principal Place of Business: Clark	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): ZIP Code	Mailing Address of Joint Debtor (if different from street address): ZIP Code
Location of Principal Assets of Business Debtor (if different from street address above):	

Type of Debtor (Form of Organization) (Check one box) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	Nature of Business (Check one box) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 Tax-Exempt Entity (Check box, if applicable) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).
Chapter 15 Debtors Country of debtor's center of main interests: Each country in which a foreign proceeding by, regarding, or against debtor is pending:		Nature of Debts (Check one box) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input type="checkbox"/> Debts are primarily business debts.
Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.	Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (<i>amount subject to adjustment on 4/01/13 and every three years thereafter</i>).	Chapter 11 Debtors Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).

Statistical/Administrative Information <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.	THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> OVER 100,000	
Estimated Assets <input checked="" type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion	
Estimated Liabilities <input checked="" type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion	

B1 (Official Form 1)(12/11)

Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): Myles, Joshua Marquise	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed: - None -	Case Number:	Date Filed:	
Location Where Filed:	Case Number:	Date Filed:	
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor: - None -	Case Number:	Date Filed:	
District:	Relationship:	Judge:	
Exhibit A (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)		Exhibit B (To be completed if debtor is an individual whose debts are primarily consumer debts.) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).	
<input type="checkbox"/> Exhibit A is attached and made a part of this petition.		X /s/ Jared R. Richards Signature of Attorney for Debtor(s) (Date) Jared R. Richards	
Exhibit C Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?			
<input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No.			
Exhibit D (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)			
<input checked="" type="checkbox"/> Exhibit D completed and signed by the debtor is attached and made a part of this petition.			
Information Regarding the Debtor - Venue (Check any applicable box)			
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. <input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes)			
<input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)			
_____ (Name of landlord that obtained judgment)			
_____ (Address of landlord)			
<input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and <input type="checkbox"/> Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. <input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).			

B1 (Official Form 1)(12/11)

Voluntary Petition

(This page must be completed and filed in every case)

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
 [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
 [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X /s/ Joshua Marquise MylesSignature of Debtor **Joshua Marquise Myles****X**

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

March 18, 2013

Date

Signature of Attorney***X /s/ Jared R. Richards**

Signature of Attorney for Debtor(s)

Jared R. Richards 11254

Printed Name of Attorney for Debtor(s)

Richards & Associates, LLC

Firm Name

**1489 W. Warm Springs Rd. Ste 110
Henderson, NV 89014**

Address

Email: jared@jaredrichardslaw.com**702-518-5180 Fax: 702-508-9393**

Telephone Number

March 18, 2013

Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Name of Debtor(s):
Myles, Joshua Marquise**Signatures****Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.)(Required by 11 U.S.C. § 110.)

Address

X

Date

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. §110; 18 U.S.C. §156.

Exhibit B

A Nevada Law Firm
 Civil Litigation
 Personal Injury
 Bankruptcy
 Probate
 Estate Planning



1489 W. Warm Springs Rd.
 Suite 110
 Henderson, Nevada 89014
 Telephone: (702) 518-5180
 Telefax: (702) 508-9393

Jared R. Richards - (702) 518-5180
 jared@jaredrichardslaw.com

March 20, 2013

Via Facsimile (214) 237-3661

Santander Consumer USA
 Po Box 961245
 Ft Worth TX 76161

**Re: Joshua Myles, Acct: 30000173277811000 on the 2010 Chrysler Sebring
 Bankruptcy No. 13-12201**

Dear Santander:

This letter is to confirm the conversation I had with your customer service agent yesterday and is a follow up from my earlier letter. I represent Joshua Myles in his federal bankruptcy proceeding.

Yesterday, I spoke with a manager in your bankruptcy department, requesting a return of my client's vehicle. I informed the manager that holding my client's vehicle is a violation of the automatic stay. Your manager refused to release the vehicle, regardless of the stay violation. This is, of course, contempt of a court order. Section 541(a)(1) of the Bankruptcy Code provides that any property titled in my client's name at the time of filing the bankruptcy is part of the bankruptcy estate. This concept was further solidified by *United States v. Whiting Pools*, 103 S.Ct. 2309, at 2313 (1983), wherein the court held pre-petition repossessed property is part of the bankruptcy estate. Section 542(a) provides that anyone in possession of property of the bankruptcy estate must turn the property over. This concept was addressed by the Northern District of California case of *In re Cortez*, where the court held that "knowing retention of estate property violates...the automatic stay."

I extend the demand one more time. Please turn over my client's vehicle, either to my client or the bankruptcy trustee, Victoria Nelson, who can be contacted at 702-791-0308. Any attempt to retain possession of the property or any attempt to sell property that was titled in my client's name at the time of bankruptcy, will be treated as a violation of the automatic stay. Please acknowledge your compliance with this demand by 5:00 p.m. today. I can be contacted via phone at 702-518-5180; via fax at 702-508-9393 and via email at jared@jaredrichardslaw.com. Failure to comply to result in me filing a motion for sanctions for violation of the automatic stay.

Please contact me to discuss this matter.

Very truly yours,

Richards & Associates

Jared Richards